



CHARLES CITY COUNTY

PLANNING COMMISSION

Meeting Minutes

CALL TO ORDER:

The Charles City County Planning Commission Meeting was called to order on *April 28, 2022, at 7:00 p.m.* at the Charles City County Government Administrative Building.

PRESENT:

Ed Baber, Chairperson; Andrew Adams, Vice Chairperson; Gilbert Smith; James Walton.

ABSENT:

William Bailey; LaToya Johnson-Davis; Clyde L. Miles;

OTHERS PRESENT:

Rhonda Russell, Asst. Co Administrator/Director Community Development
Gary Mitchell, Planner/Asst. Zoning Administrator
Peggy J. Sullivan, Administrative Assistant

PUBLIC HEARINGS:

The Chairperson reviewed the guidelines for Public Hearings.

Application #1

TXT Amendment-08-2022: A text amendment submitted by Barrego Solar to add to Section 3 Definitions of the Charles City County Zoning Ordinance *Small Scale Solar Energy Facility* and *Medium Scale Solar Energy Facility*. Further to modify the existing definition of Solar Facility by adding the term *Utility Scale* to specify the existing Solar Facility definition is a larger operation than the other 2 definitions being added.

Application #2

TXT Amendment-09-2022: A text amendment submitted by Barrego Solar to add Section 5-3 Uses with Special Use Permit *Small Scale Solar Energy Facility*, and *Medium Scale Solar Energy Facility*. To modify the existing Solar Facility, use to *Utility Scale Solar Energy Facility*.

Staff Presentation/Recommendation:

The applicant has requested that the County amend the ordinance to permit small scale, medium scale solar energy facilities and to modify the existing solar energy facility with the modifying term of Utility Scale. The State of Virginia is supporting the development of smaller scale solar facilities. These facilities normally generate less than five megawatts of electricity and have a much smaller footprint. This text change would allow such facilities to be developed under a Special Use Permit (SUP). The applicant has submitted the SUP; however, staff believes it would be best that the text amendment is evaluated without being connected to a SUP.

The Commonwealth of Virginia's General Assembly in 2020 passed the Virginia Clean Economy Act and was signed by the Governor. This bill promotes the development of renewable energy through solar facilities. This authorizes private third-party firms as the applicant to construct smaller scale solar facilities which will be sold to public utilities. The applicant is proposing to construct a facility such as this in the County. Currently the County's ordinance allows large scale utility facilities five megawatts or larger, thus the need for the text amendment. Such facilities should be permitted by Special Use Permit only and not permitted as a by-right use. There are four performance standards included in the text amendment for all solar facilities, and they are as follows:

1. Entrance into facility shall be marked by VDOT commercial entrance with the paved apron extending twenty feet from the edge of pavement.
2. All costs associated with the review of the site plans, building construction plans and environmental reviews shall be the responsibility of the applicant to reimburse the County cost.
3. If multiple parcels are part of the project all parcels shall be considered into a single project.
4. Chain link and razor/barbered wire fencing shall not be seen from the road

The Commission may want to consider additional standards such as a higher degree of buffering and

landscaping surrounding the proposed facility. The ordinance currently requires a five-foot-wide landscaped strip of land along the road right-of-way. The commercial entrance prevents the road from being damaged from trucks going in and out of the facility. This proposed amendment will help our local economy and develop clean and renewable energy resources. This would allow the development of smaller solar energy facilities. The applicant doesn't have to agree to conditions since the Code of Virginia permits the Board of Supervisors to impose conditions to each particular special use permit based on the local issues and impacts. Staff recommends the Planning Commission forwards the text amendments below as presented to the BOS with a favorable recommendation.

UTILITY SCALE SOLAR ENERGY FACILITY: A facility greater than 5 megawatts (MW) consisting of solar panels, modules, accessory structures, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar energy and converts it into heat and/or electricity. This definition is not intended to regulate solar structures on individual residential or business properties primarily serving the energy needs for the subject property, so long as such structures meet applicable requirements of local, state, and federal regulations. (Amended 6/27/2017)

SMALL SCALE SOLAR ENERGY FACILITY: A facility greater than 1 but less than 2 megawatts (MW) consisting of solar panels, modules, accessory structures, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar energy and converts it into heat and/or electricity. This definition is not intended to regulate solar structures on individual residential or business properties primarily serving the energy needs for the subject property, so long as such structures meet applicable requirements of local, state, and federal regulations.

MEDIUM SCALE SOLAR ENERGY FACILITY: A facility greater than 2 but less than 5 megawatts (MW) consisting of solar panels, modules, accessory structures related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that and collects solar energy and converts it into heat and/or electricity. This definition is not intended to regulate solar structures on individual residential or business properties primarily serving the energy needs for the subject property, so long as such structures meet applicable requirements of local, state, and federal regulations. In terms of the Special Use Permit section 5-3 changes underlined are as follows:

12. Utility Scale Solar Energy Facility
13. Medium Scale Solar Energy Facility
14. Small Scale Solar Energy Facility

There were changes made in number one of the performance standards that is to be included in the text amendment for all solar facilities, and that is as follows:

1. The facility entrance shall be designed in accordance with VDOT and must include a paved apron extending twenty feet from the edge of the pavement.

Applicant Presentation:

Jessie Robinson – Borrego: Borrego was founded by two brothers in 1980. They are a solar developer with nine-hundred megawatts across the nation.

- There are two programs in Virginia; Virginia clean Economy Act. In order to qualify for this project, you have to be three megawatts or less. The other is Community Shared Program which is Shared Solar Program – two-hundred megawatts for projects of five megawatts or less.
- Dominion Energy is to acquire one-thousand megawatts of three megawatts or less by 2035. Anyone with a Dominion Energy bill can subscribe to the program and receive a credit on the utility bill.
- Small scale projects connect to a distribution line and are only twenty – forty acres in size. The difference is someone like sPower here in the County inner connects to a different type of transmission line that will run for miles and meet at their substation. Where Borrego is on a local grid and run along roads and is capped by law at three – five megawatts depending on the program with no substation.

Andrew Kavanaugh – Borrego Civil Engineer; Our purpose here tonight is to request to amend the ordinance in 1-A too; strike through megawatts to permit small scale, two megawatts and below, medium scale, two to five megawatts and to modify the existing solar energy facility with the modifying term of Utility Scale, which is five megawatts and above. Borrego also wanted to change;

- From: Entrance into facility shall be marked by VDOT commercial entrance with the paved apron extending twenty feet from the edge of pavement.
- Too: The facility entrance shall be designed in accordance with VDOT and must include a paved apron extending twenty feet from the edge of the pavement.

Jessie Robinson – Borrego: The main substation in the County is the Chickahominy substation. Borrego has the potential for ten to eighteen projects (five megawatts or less) less than 1% of County

land. This estimate could be lower considering land owners interest, setback requirements, and environmental restrictions (wetlands). Here are a few of the many benefits to the County;

- Increases local revenue
- Dominion Energy customers subscribe and receive a local bill credit
- No increase in traffic
- Provides Clean energy
- Improves reliability of the interconnection grid

Andrew Kavanaugh – Borrego Civil Engineer; Here are a few of the Engineering benefits that cater requirements for a project based on its geographic location within the County;

- Ability to adhere to the County’s future development plan on a small scale with minimal impact to future land development.
- Limited footprint to twenty – thirty acres earthwork.
- Ability to confirm the facility to the land, leaving landscape not moving land.
- Minimal risk off site sedimentation during development.
- Reduce draining areas with manageable practices & measures.
- Limited tree clearing.
- Preserves ecological core and establish ecosystems with little to no deforestation.
- Conform to vegetation.
- Short construction and decommissioning schedule, three to six months depending on weather.

Andrew Kavanaugh stated they held virtual community meeting November 17, 2021, and sent mailer to adjacent neighbors on October 13, and October 27, 2021, that had no attendees, no negative feedback. Borrego will be holding another community meeting May 10, 2022, and will extend the radius ½ mile will send mailer out on April 8, April 27, 2022 including time of meetings, 10:00 am and 7:00 pm.

• Questions/Comments: The Planning Commission asked the following;

◦ What will you be doing with the trees once they are cut down? Borrego answered the trees will be hauled off site, no burning on site and noted only a limited number of trees will need to be cut. Borrego also stated that you could make as a condition to not burn trees on site.

◦ Do you need a substation to deliver your source of power? Borrego answered not for the small projects, we will hook directly into the grid.

◦ How does this energy relate to the County home owner? Borrego answered they subscribe to the system and will get from 10% - 15% off their Dominion Energy bill. This will cover 6 – 8 hundred residents depending on the production of the system, and it will be first come first serve.

◦ What is the life expectancy of the panels? Borrego answered twenty-five years.

◦ What will you do with the panels? Borrego answered they will be decommissioned and taken off the property.

• Staff questions from Planning Commission;

◦ Why do you have to put performance standards with solar facilities? Staff answered The Board of Supervisors has approved for the entire Zoning Ordinance be redone this year. How would you include it in the Ordinance? Staff will be putting performance standards throughout the Ordinance.

• Public Questions;

◦ Why weren’t more people notified? By state law you only have to notify adjacent property owners. There was an ad in the paper, social media, and a sign if the property touches the road.

◦ How do we subscribe? Later in the project you will see something on your Dominion Energy Bill.

• Public Hearing:

Scott Foster, Attorney for AES (formally sPower). I have problem with performance standard #3, If multiple parcels are part of the project all parcels shall be considered into a single project. Solar projects are leased, and it is an impractical impossibility for the land owner to consolidate their property. Solar projects may or may not be contentious, which may or may not include an easement. In this situation the projects will be unable to be consolidated. Ordinances or condition in permit shall not apply to the interior solar project boundaries but apply to the exterior property line. Building across lot lines use less land as possible, while still protecting adjacent property owners. These are the only issues I have that I would ask you to consider. No one else spoke to the issue. The public hearing was closed.

The Planning Commission had some discussion on the solar facility and the substation connection. They felt it was worth staff going back and getting more information for us.

On a motion made by Mr. Adams, second by Mr. Walton, and a vote of 4/0 the Planning Commission approved to push Txt Amendment 08-2022, and Txt Amendment 09-2022 back to staff to be included in the overlay district for solar panels, adjust performance standards about no burning, leasing options instead of ownership, and increase the buffer to one-hundred fifty feet instead of five feet of natural vegetation.

APPROVAL OF PREVIOUS MEETINGS MINUTES:

By consensus the minutes from November 18, 2021, December 09, 2021, and January 27, 2022, were deferred until the next meeting.

UNFINISHED BUSINESS:

Short Term Rentals; This is where the entire house would be rented. Definitions are as follows:

- Operator – means the proprietor of and dwelling, lodging, or accommodations offered a short-term rental, whether in the capacity of owner, lessee, mortgages in possession, licensee, or any other possessory capacity.

- Tourist Home - when an entire dwelling is rented to guests for residential use related to tourism or vacationing for rental periods that which are from a weekend (3 days) to no more than (90) days in a calendar year. A Tourist Home is a dwelling rented on a short-term basis throughout a calendar year and which are not owner operated.

The Ordinance is inconsistent, and staff suggests these changes:

- Initial inspection of the property shall be performed by the Building Official prior to opening to the public to ensure all life-safety, structural elements, and electrical-mechanical systems are functioning properly for the applicable assembly use group per the Uniform Statewide Building Code (USBC).

- However, at no time shall a Tourist Home have more than four bedrooms available for guest.

- carbon monoxide detectors properly installed in – living areas and each bedroom.

- Infractions shall be enforced by the County Sheriff's Office.

- No Tourist Home may be subleased to other parties, persons, corporation, or any other organization.

- Life safety inspection shall be conducted by Building Official which shall certify that the property meets the above requirements as well as life-safety requirements of the Uniform Statewide Building Code (USBC) of Virginia prior to renewal.

- No Tourist Home shall be located any closer to 1000 feet to another such establishment.

- Tourist Homes located on private roads shall pay fees for the maintenance of the road based upon number of patrons using the facility.

Mr. Mitchell stated just need to clear up discrepancies, Staff and Planning Commission discussed changes that staff suggested.

Mr. Yoder stated we have property here. We understand the concerns of our neighbors. The revisions the County has proposed are acceptable except in definitions regarding thirty days or less. Instead of saying three days to ninety days I would say it should be the standard definition of anything thirty days or less. Concerning the private road that homeowners maintain, the concern of additional traffic is understandable, and you do want to know who is coming in and out. What we are suggesting about the one-thousand-foot requirement is that should be taken out and say instead:

- A Tourist Home shall be limited to lots that have frontage on a public road and direct access to and from a public road. If you no not have direct access to a public road, you cannot be a Short Term Rental. I think that resolves the concern of neighbors about the private road. I think this is a good way to do it, because you must be sensitive to your neighbors. You have to decide what is right for Charles City County but keep it simple and don't over regulate it.

Mr. Mitchell stated we will go back and look at this, make adjustments for the changes brought up and make Short Term Rentals for thirty days or less. Lodging generally in A-1 District should be a Special Use, and we will have this ready for the next Public Hearing.

Setbacks; Mr. Mitchell stated we started on setbacks last summer because of existing older homes that do not make the setback requirements that we have now. Attached are the revisions of the proposed setback

adjustments and lot criteria. Staff had met with the Chairman and has attempted to merge his concerns together with staff's proposals in order to have a more complete and streamlined information for citizens and the community as a whole. Staff is requesting the Planning Commission discuss these proposals so that in May we can hold a public Hearing. Mr. Mitchell went over suggested changes and the Planning Commission members decided they would like to go over this with staff before the next Public Hearing and make necessary adjustments if needed.

NEW BUSINESS:

No New Business was considered.

PLANNING DIRECTOR/STAFF UPDATE:

There were no additional Planning Director/Staff updates.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

The meeting was adjourned at 9:00 p.m.